

GROWING OLD IN INDIA AND SOCIO ECONOMIC JUSTICE: AN APPRAISAL OF THE LEGAL REGIME

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ABSTRACT

Ageing is a significant global demographic phenomenon with far-reaching implications for human rights, social protection, healthcare, employment, and social inclusion. This paper examines the evolution of the international legal and policy framework for the protection of older persons, tracing the shift from general human rights guarantees to ageing-specific international and regional instruments. It analyzes the relevance of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly in relation to dignity, equality, non-discrimination, social security, healthcare, and adequate living standards. The paper further examines the Vienna International Plan of Action on Ageing, 1982 and the Madrid International Plan of Action on Ageing, 2002, which established important principles concerning participation, economic security, health and well-being, supportive environments, and intergenerational solidarity. Regional developments, including the Inter-American Convention on Protecting the Human Rights of Older Persons, the African Protocol on the Rights of Older Persons, and European protections, are also considered. Particular attention is given to challenges faced by developing countries, including inadequate pension coverage, limited healthcare infrastructure, rural inequalities, declining family support, and digital exclusion. The study finds that although international frameworks have substantially strengthened the normative recognition of older persons as rights-holders, their effectiveness remains constrained by their largely non-binding character, implementation gaps, fragmented governance, and limited monitoring mechanisms. The paper concludes that ageing policy should move beyond welfare and charity towards a rights-based approach that recognizes older persons as equal members and active contributors to society.

Keywords: Ageing, demographic shift, legal provision, International scenario.

INTRODUCTION

Ageing is a global phenomenon. According to the United Nations, the number of people aged 65 years and above is projected to double by 2050. This demographic shift has profound implications for social protection systems, healthcare, labor markets, and human rights law. Historically, International law did not treat older persons as a distinct category requiring specific legal protection. Instead, their rights were assumed to be covered under general human rights norms. However, experience shows that older persons often face age discrimination, neglect, and abuse, inadequate access to healthcare, poverty, and social exclusion. This chapter analyzes international protocols, treaties and other instruments related elderly people. Different states in the world since the time of ancient Roman Empire had extended certain aid and benefits to old age persons. Britain passed the law, long back in 1601, The Poor Law. The Pension Model which was followed by many European Countries was based on the model framed by Bismarck. Encyclopedia Britannica traces the history of special provisions made to take care of elderly people:

"State institutions to aid the elderly have existed in varying degrees since the time of the ancient Roman Empire. England in 1601 enacted the Poor Law, which recognized the State's responsibility to the aged, although programs were carried out by local church parishes. An amendment to this law in 1834 instituted workhouses for the poor and aged, and in 1925 England introduced social insurance for the aged regulated by statistical evaluations. In 1940 programs for the aged came under England's welfare State system. In the 1880s Otto von Bismarck in Germany introduced old-age pensions whose model was followed by most other western European countries. Today more than 100 nations have some form of social security program for the aged. The United States was one of the last countries to institute such programs. Not until the Social Security Act of 1935

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was formulated to relieve hardships caused by the Great Depression were the elderly granted old-age pensions. For the most part, these State programs, while alleviating some burdens of aging, still do not bring older people to a level of income comparable to that of younger people."

At international level the concerns of elderly people raised after commencement of Universal Declaration of Human Rights. This was initiated by Argentina in 1948 and by Malta in 1969 but it got success only when General Assembly of the United Nations asked the Secretary General to prepare a detailed report with appropriate guidelines at international and national level. In 1978 General Assembly decided to hold first World Assembly on Ageing, which was held in Vienna from July 26 to August 6, 1982. The World Assembly, first time adopted an international plan of action on ageing. This is called Vienna International Plan of Action of Ageing 1982. General Assembly in its 74th Plenary Meeting adopted the resolution for the Implementation of the International Plan of Action on Ageing. The year 1999 was declared by the United Nations, International year for older persons and First day of October as the international day for the older Persons. The Second World Assembly on ageing took place in Madrid (2002), to decide the recourse for future. The discourse in this World Assembly resulted into Political Declaration and International Plan of Action on ageing.

INTERNATIONAL LEGAL FRAMEWORK TO SAFEGUARDS THE INTERESTS OF SENIOR CITIZENS

The World Population is growing at alarming rate. There are certain declarations and covenants which not specifically related to particular age, but very important. Universal Declaration of Human Rights (UDHR), International Covenants on Civil and Political Rights 1966 (ICCPR) and International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) are such documents which are not specially passed for senior citizens but for all. These documents are setting the norms which must be considered in policy framing and law making by all member of United Nations. Whenever, there are issues of human rights such as dignity of life, equal treatment, to any person, irrespective of the age, UDHR, ICCPR and ICESCR must be referred to see the position of concerned group of persons. To analyze the socio-economic position of senior citizens, it is pertinent to see what the provisions are given under these instruments to address their issues.

1. General Human Rights Instruments Protecting Elderly Persons

Although early international instruments did not specifically mention older persons, their provisions implicitly protect them through universal human rights guarantees.

Universal Declaration of Human Rights –(UDHR-1948)

Preamble to the Universal Declaration of Human Rights declares that "Recognition of the inherent dignity and of the equal and inalienable rights of the all member of the human family is the foundation of freedom, justice and peace in the world." United Nations Universal Declaration of Human Rights was adopted on 10th of December, 1948 in Paris. India was one of the members who voted in favour of the resolution thus, one of the founding members of the United Nations. It may be considered as yardstick of minimum freedom. These freedoms are available to everyone irrespective what is the age of the person, how young or old someone is. Since the time, world has realized that elderly people are a class in themselves. They should be treated specifically keeping in mind the challenges to their existence as human being with all dignity. If, any specific international instrument related to elderly people would not have been passed, in that case, UDHR would have been sufficient to be the torch bearer to consider the issues of growing elderly population. The Vienna Plan echoes the same. The preamble to the Vienna World Assembly for International Plan of Action on ageing declares that

"The Countries gathered on the World Assembly on Ageing...do solemnly reaffirm their belief that the fundamental and inalienable rights enshrined in the Universal Declaration of human rights apply fully and undiminishedly to the ageing."

It is apposite to note that "All human beings are born free and equal in dignity and rights. They are endowed with reasons and conscience and should act towards one another in spirit
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of brotherhood.” Prime among all is the human existence and how to make that existence significant, should be the decisive factor. Declaration bestows the onus on all human beings that they should act with reasons and conscience. Giving up elderly people as destitute because of impairments brought by age, can never be an act with reason. Though, age has not been specifically mentioned as the ground of prohibition of discrimination like race, sex, caste, political or other opinion but the last term which refers “or other status”, makes it quite flexible to include any position or situation. The term “security to person” should not be seen only in terms of safety but should include all kinds of securities making the existence fearless and meaningful. Inhuman and degrading treatment must be undone while framing policies and regulations.

The Universal Declaration of Human Rights (UDHR) is particularly significant. Article 25(1) recognizes the right to security “in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood.” This is the first explicit international recognition of “old age” as a ground requiring social protection. The UDHR establishes dignity, equality, and security as foundational principles. Its provisions relating to social security, healthcare, and adequate living standards apply equally to older persons. Relevant protections include:

- Equality and non-discrimination
- Right to life and security
- Protection from degrading treatment
- Right to effective legal remedy
- Right to social security and adequate standard of living.

All human being must be provided effective remedy against the violation of fundamental right guaranteed or sanctioned by the concerned Constitution of the country. Though under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the establishment of Tribunal has been provided very much with this objective.

International Covenant on Civil and Political Rights 1966

This Covenant proclaims that “recognition under the UN Charter of dignity and of the equal and inalienable rights of all members of human family as the foundation of human rights...and realizing that the individual having duties to other individuals and to the community to which he belongs is under a responsibility to strive for the promotion and observance of the rights recognized in the present covenant” This covenant reiterates the right to life with all exclusions of arbitrary means and methods. State shall take all the endeavors and ensure that no one should be subjected to forced or compulsory labour. The Covenant ensures all the freedoms which are almost illustrated in Part-III of the Constitution of India. As senior citizens are not a separate class, hence does not require to mention specific fundamental rights only for senior citizens. They enjoy all freedoms like other, though their interpretation required to be dynamic as contextually be fitting to such senior citizens. Most of these have been reverberated in other international instruments related to elderly people.

International Covenant on Economic, Social and Cultural Rights, 1966

The Covenant declares that “The State parties to this covenant considered that the principles enshrined in the UN Charter were the foundation to the recognition of the human dignity and of equal and inalienable rights. It has recognized the rights have been derived from the inherent dignity of the human being.” Every member of the covenant must realize that every individual having certain obligations towards others and should strive for the promotion of the same. Proclaiming equality is one thing but creating environment where people may feel of being treated equally is quite another thing. Unequal existence in the society cannot be expected to extend equality. To help others to flourish in terms of economically, socially and culturally, it is necessary that there should not discrimination on the basis of age. It cannot be denied now that elderly people are feeling sidelined. Some recent trends suggest that there is decline in respect to elderly people and personal space of them being ignored constantly. State must ensure to create opportunity to every one so that everyone can earn the livelihood by doing the act of his or her choice.

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One of the most important provision in this Covenant for the elderly people is recognition of the right conferred on everyone to get the social security. In The whole discussion of elderly people is primarily concerned with social security. In India government has taken certain initiatives like National Social Assistance Programme. Under this programmed monthly pension for senior citizens has been provided. But the amount given as pension is so miserable, it appears that providing pension is dispensing with a burden rather than liability.

CEDAW and Older Women

Older women often face “multiple discrimination” based on age and gender. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) addresses gender discrimination, which significantly affects older women’s access to pensions, healthcare, and property rights.

CRPD and Ageing with Disability

Many older persons experience disabilities. The Convention on the Rights of Persons with Disabilities (CRPD) is relevant where ageing intersects with disability

The CRPD promotes:

- Accessibility
- Independent living
- Legal capacity

2. Development of Specific International Frameworks on Ageing

Over time, international law evolved beyond general rights to adopt instruments specifically addressing ageing. The principles of the United Nations have been “to add life to the years that have been added to life.” The General Assembly of the United Nations decided, in resolution 33/52 of 14 December 1978, to convene a World Assembly on Aging in 1982. The purpose of the World Assembly would be to provide a forum “to launch an international action programme aimed at guaranteeing economic and social security to older persons, as well as opportunities to contribute to national development”. In its resolution 35/129 of 11 December 1980, the General Assembly further indicated its desire that the World Assembly “should result in societies responding more fully to the socio-economic implications of the aging of populations and to the specific needs of older persons”. International framework which is framed to redress the issues of elderly people. Following initiatives in form of Actions Plans, have been adopted at international level;

- The First World Assembly on Ageing: The Vienna International Plan of Action on Ageing, 1982
- The Second World Assembly on Ageing: The Madrid International Plan of Action on Ageing 2002
- Regional Implementation Strategy for the Madrid International Plan of Action on Ageing, Shanghai-2002
- The Macao Outcome Document 2007
- Open Ended Working Group on Ageing, Since 2011

The First World Assembly on Ageing: The Vienna International Plan of Action on Aging, 1982

The Vienna International Plan of Action on Ageing marked the first comprehensive global strategy addressing demographic ageing. Held in Vienna, it established principles and recommendations for national policies. The Vienna International Plan of Action on Ageing (hereinafter also referred as “Vienna Plan”) should be considered an integral component of the major international, regional and national strategies and programs formulated in response to important problems and needs of human being whether specially referring elderly people or not. The Assembly declared that the life may be short or long but must be qualitative. It reads as:

“Do solemnly recognize that the quality of life is no less important than longevity, and that the

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ageing should therefore, as far as possible, be enabled to enjoy in their own families and communities a life of fulfilment, health, security and contentment, appreciated as an integral part of society."

Objectives of the Vienna Plan

The Vienna Plan aimed to:

In furtherance of the promises made in preamble, the Vienna Plan set specific objectives to achieve. These are:

- (a) To further national and international understanding of the economic, social and cultural implications for the processes of development of the aging of the population;
- (b) To promote national and international understanding of the humanitarian and developmental issues related to aging;
- (c) To propose and stimulate action-oriented policies and programs aimed at guaranteeing social and economic security for the elderly, as well as providing opportunities for them to contribute to, and share in the benefits of, development;
- (d) To present policy alternatives and options consistent with national values and goals and with internationally recognized principles with regard to the aging of the population and the needs of the elderly; and
- (e) To encourage the development of appropriate education, training and research to respond to the aging of the world's population and to foster an international exchange of skills and knowledge in this area.

Principles Laid Down in Vienna Plan

The Vienna Assembly outlines the principles around which the action plan on ageing should be implemented. It emphasized that formulation and implementation of the policies on elderly people is exclusive zone of function of each sovereign State with its specific capacity and needs of elderly people. The Vienna Assembly after deliberation laid down the principles on which the concerns discussed in the Assembly may be resolved successfully. Following are some of the important principles:

- The development process must be inclusive. It should aim to enhance the human dignity. It must be ensuring that there must be equity among groups irrespective of age, sex or needs;
- Peace is the prime condition to the solutions of many problems faced by older persons. If there is no apprehension of war the resources spent on arms can be used for social and economic development. It further elaborated that ageing can find their best solution in the environment, where there is respect for human rights. For any society be respectful to the human right, it is pre-requisite that it must be free from any discriminatory practice like apartheid, genocide, racism, sex discrimination etc.
- For harmonious development it is necessary that people of all age should be accustomed of creating balance between innovative challenges and traditional values. Old people are the prime concern to not find themselves in the best position to adapt so easily due to the restraints posed by ageing. State should intervene here to fill the gap. It must be remembered that the traditional and cultural values are important to the society and its transfer happens by ageing. Expenditure on ageing should be considered by the State as lasting investment.
- Family is a fundamental unit of society. Family is the linking point between generations. It is necessary that family must be maintained, strengthened and protected.
- One of the important objectives of socio-economic development is to achieve an age integrated society. State must take necessary actions to encourage mutual trust among generations. It notes down that ageing is life long process and should be recognized as such. Preparation of the entire population for the later stages of life should be an integral part of social policies and encompass physical, psychological, cultural, religious, spiritual, economic, health and other factors. Importantly, it declared that ageing should be viewed as a lifelong process and not merely a social burden.
- Government must undertake the research activities in all aspects of ageing. It should take the help of non-governmental organization and any other group which is working to protect the interest of elderly people.

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Recommendations for Action

The Plan recommended:

- Integration of ageing into labour and welfare policies
- Coordination between healthcare and social services
- Investment in ageing as a long-term development strategy
- Policies promoting meaningful participation of older persons
- There should be determination to add qualitative contents to the expanding lifespan of individuals. It should be effected by the State that life longevity must be meaningful. Old age is natural phase of any individual's life.
- Labour Policy must be inclusive of working group population even prior to the age grading of 60 years. This is very important for a country like India wherein majority of the employment is in private sector and a substantial part of it engaged in unorganized sector. There must be co-ordination between social welfare programs and health care policies. It emphasizes that the trend towards increased costs of social services and health-care systems should be offset through closer co-ordination between social welfare and health care services both at the national and community levels. For example, measures need to be taken to increase collaboration between personnel working in the two sectors and to provide them with interdisciplinary training.

These recommendations laid the foundation for later global strategies.

Second World Assembly on Ageing:

The Madrid International Plan of Action on Ageing-(MIPAA)-2002

The Madrid International Plan of Action on Ageing (MIPAA) represents the most influential contemporary framework. It recognized ageing as a global development issue affecting both developed and developing nations. During the Assembly, UN Secretary-General Kofi Annan emphasized that demographic ageing would shape economic, social, and political systems worldwide. He opined:

"The world has changed almost beyond recognition since the first world assembly on Ageing in 1982. Where once population ageing was mostly a concern of developed countries, today it is gaining real momentum in developing countries as well. And where once ageing may have been thought by some to be a standalone issue or afterthought. Today, we understand that such a dramatic demographic transformation has profound consequences for every aspect of individual, community, national and international life."

The Madrid Action Plan and Political Declaration were adopted by the Second World Assembly on Ageing held at Madrid, Spain from 8-12 April, 2002. Madrid action plan is a milestone in the journey of efforts made for the redresses of elderly issues in 21st Century. This step was a decisive turning point to assess how the world would respond to deal with challenge of building a society for all ages. This is the document which will be vital in policy formation of the governments which are serious about issues of elderly. It highlights how the States have agreed to link the issues of ageing with their socio-economic development perspectives. The resolution of implementation and follow-up plan of the Madrid expects sustained actions in right directions.

Structure of the Madrid Plan

The Plan consists of:

1. Political Declaration
2. International Plan of Action
3. Implementation Strategies(Recommendation for Action)

Part-I: Political Declaration

Madrid Assembly declares that all the representatives of the governments meeting at the Second World Assembly committed to actions at all levels in abovementioned three priority directions. This Political declaration appreciates the achievement of medical science and efforts of the Governments in rising life expectancy by improving health facilities. It reaffirmed the International Plan of Action on Ageing adopted by the General Assembly in 1982 and United Nations principles for older persons, 1991 which highlighted the areas of

independence, self- fulfillment and dignity. Older persons should have opportunity to work as long as they wish and capable to do the same. Their active participation socially, economically and politically must be supported by the State to ensure the active ageing. The attainment of highest standard of health is not an easy task world-wide and when it comes in respect of senior citizens, it becomes more typical because of deteriorating responses of the body due to ageing factors. Commitment to full physical and mental health and access to the same specifically to senior citizens is one of the basic areas where State must be specific to form their policies. All actors in the State should maximize the use of technology to bridge the gap of discrimination based on ageing. All people from all regions and societies must join the hands in dedication to a shared vision for equality for persons of all ages.

Part-II: Plan of Action

The year 1999 was declared as the year of older persons. This initiative aimed to spread awareness, research, policy and academic awareness worldwide. Following terms of 1999 year of older persons, emphasized on following four dimensions:

- a. Individual life long development;
- b. Multigenerational relationship;
- c. The interrelationship between population ageing and development;
- d. Situation of older persons.

This plan urges to bring changes in attitudes, practices and policies in such a manner that demographic transition resulting into larges elderly segment, may properly be taken up. The prime aim and concern of this plan is to ensure the ageing anywhere must have security and dignity. The Madrid International Plan of Action on Ageing (hereinafter referred as MIPAA), elaborated the issues and challenges being faced by elderly people all over the world. Part -III of the Madrid Assembly comprises of Actions, which are expedient to resolve the issues. Recommendations have further been prioritized as following:

Three Priority Directions

The Madrid Plan identifies three major policy directions:

Older Persons and Development

Focus on participation, employment, education, and poverty reduction.

1. Health and Well-being in Old Age

Emphasis on healthcare access, preventive services, and long-term care.

2. Supportive Environment

Includes housing, social protection, technology access, and inter-generational solidarity.

Central Themes

The Madrid Plan promotes full enjoyment of human rights by elderly persons, eradication of poverty in old age, lifelong learning opportunities, gender equality in ageing policies, protection from violence and discrimination, integration of technology in elderly care. This framework transformed ageing policy from welfare-based assistance to rights-based inclusion.

Regional Legal Frameworks Inter-American System

The Inter-American Convention on Protecting the Human Rights of Older Persons (2015) is the first legally binding treaty exclusively for older persons.

It recognizes:

- Right to equality and non-discrimination
- Right to autonomy
- Right to long-term care
- Protection against violence

African System

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (2016) specifically protects older persons from abuse and discrimination.

It mandates:

- Social protection systems
- Access to justice
- Protection in humanitarian crises

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European System

The European Social Charter (Revised 1996) Article 23 explicitly protects the right of elderly persons to social protection. The European Convention on Human Rights (ECHR) has been applied in cases involving neglect in care homes under Article 3 (prohibition of inhuman or degrading treatment).

The Macao Outcome Document, 2007

MIPAA set the norms which were expected to be complied with by all the signatories. But this could not serve the purpose until and unless there is no review of the compliance by the members and positive forethought changes brought into the concerns of elderly people, for this purpose, it was decided in the Second World Assembly that there shall be periodic region-wise review of the implementation of goals set in the Madrid International Plan of Action, 2002.

In light of the above background the Economic and Social Commission for Asia- Pacific (ESCAP), convened a high-level meeting on the Regional review of Madrid International Plan of Action on Ageing in Macao, China, 9-11 October, 2007. Following recommendations were made for further follow-up and implementation.

Participation and Social Integration

Active participation is essential for building inclusive societies. The Madrid Plan stresses that the contribution of older persons should not be measured solely in economic terms but also in cultural, social, and family contexts. Participation reduces isolation, strengthens identity, and improves psychological well-being.

Employment and Economic Security

Older persons should be allowed to work as long as they are willing and capable. Flexible retirement policies, age-friendly workplaces, and social pensions are essential for ensuring financial independence. Employment not only improves income security but also preserves dignity and social value. Fourteen recommendations were given under this priority area. Restructuring of policies and strategies to include the concerns of the ageing people. Pension schemes must be revitalized as multi-pillar level, it will help to sustain and ensure adequate income security measure. This social security must cover those people have been left out due to whatsoever reasons. Re-employment of elderly people has been advocated time and again and one of the prime discussions in MIPAA, during discussion it was observed that State should promote re-employment of elderly people if they are willing.

Rural Ageing and Migration

In many developing countries, migration of youth leaves older persons in rural areas without support. International policy encourages: Strengthening local support systems, providing technology access, promoting rural infrastructure, supporting older women and vulnerable groups. These measures aim to prevent social marginalization of rural elderly populations.

Education, Technology and Lifelong Learning

Technological literacy is increasingly essential for access to welfare schemes and services. International frameworks encourage: Adult education programs, digital literacy initiatives, Training for retiring employees, Access to online public services. Technology can reduce isolation, enhance safety, and improve healthcare delivery.

Health and Social Care

Healthcare access remains the most critical concern for elderly persons. International law promotes: Preventive healthcare, Long-term care systems, Integration of health and welfare policies, Community-based services. Quality of life, not merely longevity, remains the central objective of international ageing policy.

Relevance for Developing Countries

Developing nations face unique challenges due to limited resources and rapid demographic change. The ageing population in countries like India is growing quickly, yet social security systems remain underdeveloped.

Key issues include:

- Inadequate pension coverage
- Weak healthcare infrastructure
- Declining traditional family support

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- Urban-rural inequalities
- Digital exclusion

International frameworks provide guidance, but implementation depends on national capacity and political commitment.

CRITICAL EVALUATION OF THE INTERNATIONAL FRAMEWORK

Despite substantial progress, the international legal framework on ageing faces several limitations:

- **Non-binding Nature** – Most instruments are policy guidelines rather than enforceable treaties.
- **Implementation Gap** – Many countries adopt policies but fail to allocate sufficient resources.
- **Fragmented Governance** – Ageing issues are often scattered across ministries.
- **Lack of Monitoring** – Few global mechanisms exist to assess compliance.
- **Insufficient Focus on Developing Nations** – International standards often assume welfare capacities absent in poorer countries.

Therefore, while international norms are strong in principle, practical enforcement remains weak.

CONCLUSION

The international legal framework for elderly persons has evolved from general human rights principles to comprehensive ageing-specific policies. Instruments such as the UDHR, ICCPR, ICESCR, the Vienna Plan, and the Madrid Plan collectively establish a normative foundation for protecting elderly dignity, participation, and security.

However, the effectiveness of this framework ultimately depends on national implementation. As global ageing accelerates, governments must integrate ageing into development planning, expand social protection systems, and adopt rights-based approaches to elderly welfare. The future of ageing policy lies not in charity but in recognition of older persons as equal rights-holders and active contributors to society.

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